IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 17TH AUGUST 2007 / 26TH SRAVANA 1929

OP.No. 12023 of 2001(F)

PETITIONER:

PRIMA BEVERAGES LTD., PRIMA HOUSE,
BANERJEE ROAD, COCHIN-682 018,
REPRESENTED BY ITS DIRECTOR SWATHI GUPTA.

BY ADV. SRI.PREMJIT NAGENDRAN

RESPONDENTS:
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1. UNION OF INDIA, REPRESENTED BY THE MINISTRY
   OF HEALTH AND FAMILY WELFARE DEPARTMENT,
   DEPARTMENT OF HEALTH, SOUTH BLOCK, NEW DELHI.

2. THE BUREAU OF INDIAN STANDARDS, MANAK BHAVAN,
   9, BAHADUR SHA ZAFAR MARG, NEW DELHI,
   REPRESENTED BY ITS DIRECTOR GENERAL.

3. STATE OF KERALA, REPRESENTED BY THE SECRETARY
   TO GOVERNMENT, HEALTH AND FAMILY WELFARE DEPARTMENT,
   SECRETARIAT, THIRUVANANTHAPURAM.

R1 BY ASSISTANT SOLICITOR GENERAL MR. P.PARAMESWARAN NAIR
R3 BY SR.GOVERNMENT PLEADER SMT.MEERA
SRI.N.NEELAKANTAN ELAYATH,ADDL.CGSC
SRI.M.V.RAMACHANDRAN THAMPI,ADDL.CGSC

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 17/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 PHOTOSTAT COPY OF THE NOTIFICATION NO.G.S.R.760(E) DATED 29.9.2000 ISSUED BY THE FIRST RESPONDENT.

EXT.P2 PHOTOSTAT COPY OF THE NOTIFICATION NO.ICS 13.060.20 ISSUED BY THE BUREAU OF INDIAN STANDARDS DATED JANUARY, 1998

EXT.P3 PHOTOSTAT COPY OF LETTER NO.A-6400839 DATED 27.3.2001 ISSUED BY BUREAU OF INDIAN STANDARDS.

EXT.P4 PHOTOSTAT COPY OF THE CERTIFICATE NO.F.NO.3-1/2001-EIS DATED 29.3.2001 ISSUED BY THE CENTRAL INSTITUTE OF FISHERIES TECHNOLOGY

EXT.P5 PHOTOSTAT COPY OF THE LETTER ISSUED BY THE PETITIONER DATED 6.3.2001

EXT.P6 PHOTOSTAT COPY OF THE LETTER ISSUED BY THE PETITIONER DATED 6.3.2001

EXT.P7 PHOTOSTAT COPY OF THE ORDER PASSED BY THE HON'BLE HGIH COURT OF KERALA IN CMP NO.3216 OF 2001 IN W.A.NO.1344 OF 2001 DATED 2ND APRIL, 2001.

EXT.P8 PHOTOSTADT COPY OF THE FAX MESSAGE REF.NO.A=6400839 DATED 15.5.2001

EXT.P9 PHOTOSTAT COPY OF THE REPLY OF EXT.P8 APPLICATION NO.2959

EXT.P10 PHOTOSTAT COPY OF THE RELEVANT PAGE OF THE CERTIFICATE DATED 4.4.1997.

EXT.P11 PHOTOSTAT COPY OF THE PURCHASE ORDERE NO.PBPL.369/3078 DATED 18TH MAY, 2001

/ TRUE COPY /

H.L.DATTU, C.J. & K.T.SANKARAN, J.

O.P.No.12023 of 2001-F

Dated, this the 17th day of August, 2007

JUDGMENT

H.L.Dattu, C.J.

Petitioner is an industrial unit engaged in the manufacture of purified drinking water. In this petition filed under Article 226 of the Constitution of India, the petitioner seeks the following reliefs:

> "a) declare that Exhibit P1 notification issued by the Central Government under Section 23 of the Prevention of Food Adulteration Act is ultra vires the powers of the Central Government under Section 23 of the Prevention of Food Adulteration Act and therefore illegal and without jurisdiction.
>
> b) declare that regulation No.6(2) of the Bureau of Indian Standards certification regulation insofar as it empowers the executive committee of the Bureau of Indian Standards to levy marking fee on any product sought to be certified by the Bureau is beyond the powers of the Bureau of Indian Standards under Section 15(2) read with Section 38(2)(e) of the Bureau of Indian Standards Act, 1986.
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> c) award the cost of this petition to the petitioner; and
>
> d) grant such other reliefs as this Honourable Court may deem fit and proper in the circumstances of the case."

(2) This Court while entertaining the original petition had granted an interim order. The said interim order reads as under:

> "Heard both sides.
>
> The Original Petition is being recommended for placing before a Bench. In order that the petitioner may maintain status quo, until appropriate orders are obtained from the Bench, there will be an interim order as prayed for operative till 11.4.2001."

(3) The said interim order granted by this Court was extended by six weeks at the first instance, and thereafter it was extended by one month.

(4) During the pendency of the original petition, we are informed by the learned counsel appearing for the petitioner, that the petitioner has complied with the notification issued by the Union of India.

(5) In view of the above, as on today, the relief sought for by the petitioner in this original petition does not survive for consideration of this Court and accordingly it is disposed of as having become unnecessary.

(6) It is made clear that the respondents shall not initiate any prosecution proceedings against the petitioner during the period of stay that was operating against them.

(7) Consequently, C.M.P.Nos.19223 and 25083 of 2001 are also dismissed.

Ordered accordingly.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

vns